

2013 Texas Water Law Institute
December 4*, 5-6, 2013 • Sheraton Austin Hotel at the Capitol • Austin, TX

Wednesday Evening, Dec. 4, 2013

	OPTIONAL SESSION Included in conference registration.
5:30 pm	Registration Opens
6:00 pm 1.50 hrs	Texas Water Law Overview An overview of Texas water law cases, statutes and regulations, including vocabulary and acronyms necessary to understanding Texas water law. This session is designed for practitioners unfamiliar with the subject area, as well as non-lawyers, governmental officials and engineers. Doug Caroom, Bickerstaff Heath Delgado Acosta LLP - Austin, TX Jim Mathews, Mathews & Freeland LLP - Austin, TX
7:30 pm	Adjourn

Thursday Morning, Dec. 5, 2013

Presiding Officer:

Doug Caroom, Bickerstaff Heath Delgado Acosta LLP - Austin, TX

8:00 am	Registration Opens Includes continental breakfast.
8:50 am	Welcoming Remarks

DROUGHT-RELATED ISSUES

9:00 am 0.75 hr	The Role of Drought in Shaping Texas The history of drought in Texas and a drought outlook for 2014. Bob Rose, Lower Colorado River Authority - Austin, TX
9:45 am 0.50 hr	Drought: A Hydrologist's Perspective How drought affects water planning and permitting. What if we're in a worse drought than the drought of record? Bob Brandes, Robert J. Brandes Consulting - Austin, TX

10:15 am 0.50 hr	Economic Impact of Drought What threat does drought pose for the Texas economy? Billy C. Hamilton, Billy Hamilton Consulting - Austin, TX
10:45 am	Break
11:00 am 1.00 hr	Managing Water Supplies to Deal with Drought Conditions A discussion of alternative municipal, industrial and agricultural water supply management techniques used in responding to drought. Ivan Langford III, Gulf Coast Water Authority - Texas City, TX John Grant, Colorado River Municipal Water District - Big Spring, TX Wayne Halbert, Harlingen Irrigation District Cameron County No. 1 - Harlingen, TX
12:00 pm	Pick Up Lunch Included in registration.

Thursday Afternoon, Dec. 5, 2013

Presiding Officer:

Jim Mathews, Mathews & Freeland LLP - Austin, TX

LUNCHEON PRESENTATION

12:15 pm 0.75 hr	Drought Planning and Response at the TCEQ An overview addressing drought lessons learned from 2009 to the present, ongoing drought concerns, and the TCEQ's ongoing efforts to respond to the drought. Toby Baker, Commissioner, Texas Commission on Environmental Quality - Austin, TX
1:00 pm	Break

DROUGHT-RELATED ISSUES, CONTINUED

1:15 pm 0.50 hr	Alternative Approaches to Managing Water Rights in Drought Conditions A conceptual discussion of alternatives for enforcing a priority-based water permitting system. C. Joe Freeland, Mathews & Freeland LLP - Austin, TX
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1:45 pm 0.50 hr	<p><i>Texas Farm Bureau v. Texas Commission on Environmental Quality</i></p> <p>Can TCEQ depart from the priority system and grant preferences to municipal users and power generators during a drought based on public health concerns?</p> <p>This session has moved to 4:15 p.m.</p> <p>Doug Caroom, Bickerstaff Heath Delgado Acosta LLP - Austin, TX Jason T. Hill, Lloyd Gosselink Rochelle & Townsend PC - Austin, TX</p>
2:15 pm 0.50 hr	<p>Developing Brackish Groundwater Supplies</p> <p>Discussion of current law and proposals to incentivize development of this under-utilized resource.</p> <p>Ed McCarthy, Jackson, Sjoberg, McCarthy & Townsend, L.L.P. - Austin, TX</p>
2:45 pm	<p>Break</p>
3:00 pm 0.75 hr	<p>Finding and Financing Water for Your Project</p> <p>Water law experts from across the state identify factors challenging water supply issues.</p> <p>Risher S. Gilbert, The Gilbert Law Firm, P.C. - El Paso, TX Christopher G. Jordan, Crawford & Jordan LLP - Houston, TX Camm C. "Trey" Lary III, Allen Boone Humphries Robinson LLP - Houston, TX</p>
3:45 pm 0.50 hr ethics	<p>Ethical Issues Involving Engineers and Experts</p> <p>What conflict standards apply to the engineer consulting on the regional water plan and also representing entities subject to the plan? What confidentiality obligation is your engineer under regarding your plans and communications? What if he is a testifying expert?</p> <p>Dewey E. Helmcamp III, Texas Board of Professional Engineers - Austin, TX</p>
4:15 pm 0.50 hr ethics	<p>Expert Testimony: Protecting Client Privilege</p> <p>What risks are involved in communicating with an expert? Are emails and drafts discoverable? Are there additional risks if your client is a professional?</p> <p>This session has moved to 1:45 p.m.</p> <p>Thomas H. Watkins, Husch Blackwell LLP - Austin, TX</p>
4:45 pm 0.50 hr ethics	<p>Conflicts of Interest over Scarce Water</p> <p>When does a lawyer for a client seeking scarce water have a conflict because of the law firm's work on regional planning or representing other clients with surface or groundwater interests in the same watercourse or aquifer. What can you do? What should you do?</p> <p>Pete Schenkkan, Graves Dougherty Hearon & Moody P.C. - Austin, TX</p>
5:15 pm	<p>Adjourn</p>

Friday Morning, Dec. 6, 2013

Presiding Officer:

Doug Caroom, Bickerstaff Heath Delgado Acosta LLP - Austin, TX

8:00 am	Conference Room Opens Includes continental breakfast.
WATER LAW AND PLANNING ISSUES	
8:30 am 0.50 hr	Water Legislation in the 83rd Texas Legislature What passed, what did not, and why. Gregory M. Ellis, Attorney at Law - League City, TX
9:00 am 0.75 hr	Financing the State Water Plan Current issues with financing water development projects and the impact of new financing capability provided by the legislature. Anne Burger Entrekin, First Southwest Company - San Antonio, TX Jerry V. Kyle Jr., Andrews Kurth LLP - Austin, TX
9:45 am 0.50 hr	Desired Future Conditions: GMA Joint Planning, Round Two In 2011, the process used to adopt desired future conditions was significantly changed. This presentation takes a close look at the implementation of those changes during the ongoing second cycle of GMA joint planning. William D. Dugat III, Bickerstaff Heath Delgado Acosta LLP - Austin, TX Materials By: Mary K. Sahs, Sahs & Associates, P.C. - Austin, TX
10:15 am	Break
10:30 am 0.75 hr	Conflicts in Regional Planning Process A discussion of the court of appeals opinion in <i>TWDB v. Ward Timber, Ltd.</i> and how it impacts the regional planning process. Marisa Perales, Lowerre, Frederick, Perales, Allmon & Rockwell - Austin, TX Carolyn Brittin, former Deputy Executive Administrator, Texas Water Development Board - Austin, TX
11:15 am 0.75 hr	Transfer of Water Utility Regulation to the Public Utility Commission of Texas What changes are coming as a result of the transfer of jurisdiction for water utility regulation? Moderator: Jim Mathews, Mathews & Freeland LLP - Austin, TX Panelists: Michele Gregg, Office of Public Utility Counsel - Austin, TX Thomas S. Hunter, Public Utility Commission of Texas - Austin, TX Susan G. Zachos, Of Counsel, The AL Law Group, PLLC - Austin, TX

12:00 pm	Pick Up Lunch Included in registration.
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Friday Afternoon, Dec. 6, 2013

Presiding Officer:

Jim Mathews, Mathews & Freeland LLP - Austin, TX

LUNCHEON PRESENTATION

12:15 pm 0.75 hr	Moving Forward under the Reorganized Texas Water Development Board Paths forward for the newly reorganized TWDB. Chairman Carlos Rubinstein, Texas Water Development Board - Austin, TX
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1:00 pm	Break
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WATER LAW AND PLANNING ISSUES, CONTINUED

1:15 pm 1.00 hr	Interstate and International Water Projects As water demands increase and supplies diminish, interstate and international legal rights and obligations become critical in several areas of the state. Moderator: Jim Mathews, Mathews & Freeland LLP - Austin, TX Panelists: Gabriel Eckstein, Texas A&M University School of Law - Fort Worth, TX Patrick R. Gordon, Commissioner, Texas Rio Grande Compact Commission - El Paso, TX R. Glenn Jarvis, Law Offices of Glenn Jarvis - McAllen, TX
2:15 pm 1.00 hr	Takings Litigation: Post-Day, Post-Bragg A discussion of the state of regulatory takings law in Texas with a focus on claims involving groundwater. Paul M. Terrill III, The Terrill Firm, P.C. - Austin, TX Deborah Clarke Trejo, Kemp Smith, LLP - Austin, TX
3:15 pm	Break

3:30 pm
1.00 hr

Endangered Species: *TAP v. Shaw*

How much will the Endangered Species Act shape Texas water law? What are TCEQ's obligations regarding enforcement of the ESA in its management of the state's water resources?

Moderator:

Jim Mathews, Mathews & Freeland LLP - Austin, TX

Panelists:

Charles W. Irvine, Blackburn Carter - Houston, TX

Aaron M. Streett, Baker Botts - Houston, TX

Materials By:

Carlos R. Romo, Baker Botts - Austin, TX

4:30 pm

Adjourn